

BRIDGEPORT MUSIC, INC., et al., )  
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 Plaintiffs, )  
 )  
 v. ) NO. 3:01-0703  
 ) Jury Demand  
 SONGS OF ALL NATIONS, et al., ) Judge Campbell/Brown  
 )  
 Defendants. )

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no identification of the documents which will be made available nor is there any indication whatever as to when the documents will be made available. This is a question that requires a specific answer, which the plaintiffs should be in a position to supply.

Interrogatories 3 and 4 request that the plaintiffs describe in detail how they learned that any infringed composition or recording was infringed upon as alleged in the complaint. The response that the plaintiffs listened to the infringing composition on several occasions, analyzed the music therein, and compared the infringing composition to plaintiffs' properties, and that in some cases the plaintiffs were also contacted by clients' companies, is entirely inadequate. We now have over 400 separate cases. The answers of the parties must be tailored to the particular case and the particular songs involved in that case. General broad-brush answers are simply inadequate and cannot be used by any party, plaintiff or defendant. The Magistrate Judge believes that this information is relevant to the statute of limitations and laches defenses advanced by the defendants, and is information within the plaintiffs' knowledge. Indeed it would appear that if the plaintiffs learned of the infringement more than three years prior to the institution of this litigation, the later claims will be barred.

Interrogatories 5 and 6 request that the plaintiffs describe in detail what action the plaintiffs took to inform the defendants that the alleged infringing composition or sound

recordings in fact infringed the plaintiffs work. The response to this question is again a statement that the plaintiffs will make available documents responsive to this interrogatory. It appears that as of the date of the filing of the motion, no such documents have been identified or provided.

Again, this evidence is relevant to both the defense of laches and the statute of limitation defense, and is peculiarly within the knowledge and control of the plaintiffs. The Magistrate Judge would note that the defendants state in their reasons why this response should be compelled that if the plaintiffs have some explanation for their delay in informing the defendants of the infringement, the defendants are entitled to know what that explanation is. An explanation of the delay is not called for by the question. The plaintiffs are asked and are required to explain in detail, with dates if possible, what action they took to inform the defendants of infringement. They are not asked or required to explain delays (if any) in such notification. The plaintiffs shall reply to these interrogatories as worded.

The final two interrogatories request that the plaintiffs identify by year and date if possible, when the plaintiffs first heard any allegedly infringing composition.

The boiler-plate answer to these requests is again totally insufficient. The question is clearly neither overbroad or unduly burdensome. Further, once again the plaintiffs have failed to identify the documents which would be responsive to this

interrogatory and, as of the date of the filing of the motion, have not made any documents available.

The Magistrate Judge certainly realizes that it may not be possible for the plaintiffs to identify specifically when they first heard a defendants' composition or recording, but nevertheless, in preparing their lawsuit they must have known when they first began their investigation of the matter and could, at the very least, provide that date. If they are unable to ascertain an earlier date, they may simply state that fact. However, the defendants are entitled to a good faith answer to these interrogatories.

Responses to these interrogatories shall be **hand-delivered** to the defendants by **close of business on February 4, 2002**. The Magistrate Judge has considered the plaintiffs' response in which they state that they believe the documents they are in the process of preparing, pursuant to Rule 33(d), will answer the interrogatories. They state that they will have virtually all of the documents available for inspection and copying by January 22, 2002. The Magistrate Judge is not overly impressed with this response in view of the delays that have occurred so far and the failure of the plaintiffs up to this point to specify the documents that they are referring to. In addition, the Magistrate Judge does not agree that the burden would be equal to both sides in examining documents. The questions being asked are peculiarly within the knowledge of the plaintiffs and it is quite likely that some of the

information would not be ascertainable from documents.

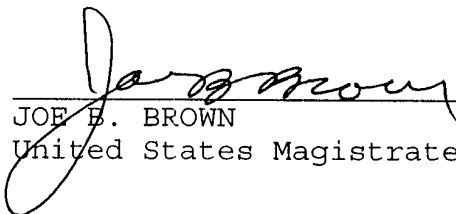
Nevertheless, since the plaintiffs have stated that they will be providing the documents by January 22, 2002, the defendants are instructed to promptly examine these documents and advise the plaintiffs if they believe an examination of the documents will, in fact, be sufficient.

The Universal defendants have also filed a motion to compel further responses to a second set of requests for inspection and copying of documents (Docket Entry No. 64). The plaintiffs have requested until Tuesday, January 22, 2002, to respond. The Magistrate Judge is concerned that some of the requests seem overbroad. The Magistrate Judge again strongly encourages all parties to tailor their requests to the information necessary and to leave off all-inclusive requests. These defendants in particular are so encouraged, in view of the Magistrate Judge's granting of their requests for interrogatory information.

The Magistrate Judge is also concerned that some of the pleadings again indicate that the parties are having difficulties communicating with each other. Telephone calls must be returned promptly. If necessary, the Magistrate Judge will set a hearing on Friday afternoon at which any unreturned phone calls will be addressed through a conference call with the Magistrate Judge. Clearly, neither the parties nor the Magistrate Judge will wish to undertake such a conference, but with all due respect, the Magistrate Judge is getting tired of each side complaining that the

other side is not returning phone calls or not responding to letters.

It is so **ORDERED**.

  
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JOE B. BROWN  
United States Magistrate Judge